

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

CHARLES HOLBROOK,  
Petitioner,

vs.

STATE OF MICHIGAN,  
Respondent.

Case No. 1:21-cv-381

Black, J.  
Litkovitz, M.J.

**REPORT AND  
RECOMMENDATION**

Petitioner, an inmate at the St. Louis Correctional Facility in St. Louis, Michigan, has filed a petition for relief in this Court. (Doc. 1). He appears to seek compassionate release under 18 U.S.C. § 3582. The Michigan Department of Corrections Offender Information Tracking System indicates that petitioner is in custody as a result of his Kent County, Michigan convictions in case number 0908856-FH.<sup>1</sup>

Petitioner has not paid the filing fee or filed a motion for leave to proceed *in forma pauperis*. The Court will not issue a Deficiency Order in this action, however, because this action is not properly filed in the Southern District of Ohio.<sup>2</sup>

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<sup>1</sup> Viewed at <http://mdocweb.state.mi.us/OTIS2/otis2profile.aspx?mdocNumber=767925>.

<sup>2</sup> Petitioner has filed multiple actions in this Court which have been transferred to Michigan district courts. *See Holbrook v. Warden*, Case No. 1:16-cv-592 (SJD; KLL) (S.D. Ohio May 31, 2016); *Holbrook v. Warden*, Case No. 1:16-cv-660 (MRB; KLL) (S.D. Ohio June 20, 2016); *Holbrook v. Pals*, Case No. 1:16-cv-1013 (TSB; SKB) (S.D. Ohio Oct. 20, 2016); *Holbrook v. Pals*, Case No. 1:16-cv-834 (TSB; SKB) (S.D. Ohio Aug. 11, 2016); *Holbrook v. Pals*, Case No. 1:17-cv-186 (TSB; SKB) (S.D. Ohio Mar. 20, 2017); *Holbrook v. Warden*, Case No. 1:17-cv-274 (WOB; KLL) (S.D. Ohio Apr. 24, 2017); *Holbrook v. Warden*, Case No. 1:20-cv-501 (MWM; SKB) (S.D. Ohio June 29, 2020); *Holbrook v. Warden*, Case No. 1:21-cv-220 (TSB; SKB) (S.D. Ohio Mar. 30, 2021); *Holbrook v. State of Michigan*, Case No. 1:21-cv-356 (MRB; SKB) (S.D. Ohio May 27, 2021).

On the same date this petition was filed, petitioner filed four additional petitions in this Court. *See Holbrook v. State of Michigan*, Case No. 1:21-cv-382 (S.D. Ohio June 7, 2021) (Black, J.; Bowman, M.J.); *Holbrook v. State of Michigan*, Case No. 1:21-cv-383 (S.D. Ohio June 7, 2021) (Black, J.; Bowman, M.J.); *Holbrook v. State of Michigan*, Case No. 1:21-cv-384 (S.D. Ohio June 7, 2021) (McFarland, J.; Bowman, M.J.); *Holbrook v. Warden*, Case No. 1:21-cv-385 (S.D. Ohio June 7, 2021) (Barrett, J.; Bowman, M.J.). In Case No. 1:21-cv-385, in light of petitioner's filing history and despite being warned that he could face filing restrictions and/or sanctions if he continued to file collateral challenges or other actions concerning his Michigan conviction, sentence, or custody in this venue, it has been recommended that petitioner be declared a vexatious litigator and be precluded from filing any action collaterally challenging or otherwise concerning his Michigan conviction, sentence, or custody unless the filing is certified as being nonfrivolous and filed in the proper venue by an attorney.


As petitioner is aware, to the extent that petitioner challenges his conviction and sentence, his petition is not properly filed in this Court. *See Holbrook v. Warden*, Case No. 1:21-cv-220 (S.D. Ohio May 3, 2021) (Doc. 4) (“This is the ninth submission by petitioner to this Court challenging his state court conviction and sentence. . . . In each of these cases, the Court transferred the submission to the United States District Court for the Western District of Michigan, where petitioner was tried and convicted.”). Under 28 U.S.C. § 2254(d), a petition for a writ of habeas corpus “may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him.” Because petitioner was not convicted or in custody within the Southern District of Ohio, this action is not properly before this Court.

Furthermore, the petition is not properly filed in this Court to the extent that petitioner seeks compassionate release because petitioner was not convicted or sentenced in this Court. *See Haynes v. United States*, No. 21-13394, 2021 WL 1405172, at \*1 (E.D. Mich. Apr. 13, 2021) (“The sentencing Court is the proper venue for a motion for compassionate release.”) (collecting cases).

Accordingly, it is recommended that this action be dismissed without prejudice subject to refile in the proper venue.

**IT IS SO RECOMMENDED.**

8/31/2021  
Date

  
Karen L. Litkovitz  
United States Magistrate Judge

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**NOTICE**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **FOURTEEN (14) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **FOURTEEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).